

AMENDED IN SENATE AUGUST 24, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2099

Introduced by Assembly Member Cedillo

February 23, 2012

~~An act to amend Section 1199 of the Labor Code, relating to employment.~~ *An act to add and repeal Section 770.4 of the Insurance Code, relating to public employees.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2099, as amended, Cedillo. ~~Employment: wage and hour violations.~~ *Public employees: annuities and mutual fund custodial accounts.*

Existing law prohibits state and local agencies from negotiating life and disability insurance or requiring the placing of that insurance through particular agents, brokers, or companies, except to the extent that the state has a direct financial interest in the subject of the insurance, as specified. Existing law excepts from these provisions a tax-sheltered annuity under an annuity plan that meets the requirements of Section 403(b) of the Internal Revenue Code to be placed or purchased for an employee, as specified. Existing law requires an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code to be offered to all employees of any state agency who are members of the State Teachers' Retirement Plan, any employee of a local public agency or political subdivision of the state that employs persons to perform creditable service subject to coverage by the plan, and eligible state employees of a state employer under the uniform state payroll system, excluding the California State University

System. The Teachers’ Retirement Law provides a registration process for information relating to tax-deferred retirement investment products.

This bill, until January 1, 2018, would authorize a pilot project that would allow the Los Angeles Unified School District and the Los Angeles Community College District to select specific 403(b) products offered by 4 or more vendors of tax-deferred retirement investment products described in Section 403(b) of the Internal Revenue Code or establish a list of preferred vendors that are recommended to employees, through a due diligence and competitive review process, as specified. The bill would make a related statement of legislative intent.

~~Under existing law, every employer or other person acting either individually or as an officer, agent, or employee of another person, who requires or causes an employee to work for longer hours than those fixed or to work under conditions of labor prohibited by an order of the Industrial Welfare Commission, who pays or causes to be paid to an employee a wage less than minimum wage fixed by an order of the commission, or who violates or refuses or neglects to comply with any specified provision of the Labor Code or any order or ruling of the commission is guilty of a misdemeanor, punishable by a fine of not less than \$100 or by imprisonment for not less than 30 days, or both.~~

~~This bill would increase the fine for a violation of this provision from not less than \$100 to not less than \$250. The bill would also make technical, nonsubstantive changes.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. *It is the intent of the Legislature to allow, as a*
- 2 *pilot project, the Los Angeles Unified School District and the Los*
- 3 *Angeles Community College District flexibility in their 403(b)*
- 4 *programs to do the following:*
- 5 *(a) Fully comply with 403(b) regulations and other applicable*
- 6 *regulatory guidelines.*
- 7 *(b) Enhance retirement savings opportunities for plan*
- 8 *participants.*
- 9 *(c) Include coordinated communication and education programs*
- 10 *designed to support education of school employees regarding the*
- 11 *benefits of participation in 403(b) plans.*

1 (d) *Emphasize transparency and disclosure of any potential*
2 *conflicts of interest in 403(b) plan design and operation to*
3 *participants and plan sponsors.*

4 (e) *Include high-quality investment options with the lowest costs*
5 *to participants and their employer.*

6 SEC. 2. *Section 770.4 is added to the Insurance Code, to read:*

7 770.4. (a) *For the purposes of this section, the following*
8 *definitions shall apply:*

9 (1) *“403(b) product” or “403(b) products” means*
10 *payroll-deducted, tax-deferred retirement investment products, as*
11 *described in Section 403(b) of the Internal Revenue Code, that*
12 *comply with applicable state insurance laws, and federal and state*
13 *securities laws and rules as applied by appropriate regulatory*
14 *entities.*

15 (2) *“School employer” means the Los Angeles Unified School*
16 *District or the Los Angeles Community College District.*

17 (b) *Notwithstanding Section 770.3 and any other law, a school*
18 *employer may, in the exclusive interests of the plan participants,*
19 *do one of the following through a due diligence and competitive*
20 *review process:*

21 (1) *Select specific 403(b) products offered by four or more*
22 *vendors of 403(b) products.*

23 (2) *Select specific 403(b) products offered by four or more*
24 *vendors of 403(b) products and continue to make contributions to*
25 *a 403(b) product not selected if the school employee purchased*
26 *or entered into the product before the effective date of the first*
27 *contract entered into by his or her school employer and the*
28 *employee has been continuously employed by that same school*
29 *employer since the employee purchased or entered into that*
30 *product.*

31 (3) *Establish a list of preferred vendors of 403(b) products and*
32 *communicate that list to school employees as vendors that are*
33 *recommended to the employees by the joint committee and adopted*
34 *by the school employer.*

35 (c) *The decision whether a school employer elects to exercise*
36 *its authority pursuant to paragraph (1), (2), or (3) of subdivision*
37 *(b), and the process by which vendors are selected, shall be*
38 *specified in collective bargaining agreements.*

39 (d) *A joint committee made up of exclusive bargaining unit*
40 *members and management shall be established to make a*

1 recommendation to the governing body of a school employer
 2 regarding the vendors and the products to be selected if the school
 3 employer elects to exercise its authority pursuant to paragraph
 4 (1) or (2) of subdivision (b), or to select the preferred vendors if
 5 the school employer elects to exercise its authority pursuant to
 6 paragraph (3) of subdivision (b). At least 50 percent of the
 7 committee shall consist of bargaining unit members selected by
 8 the exclusive representatives of the employees and 50 percent shall
 9 consist of administrators selected by management.

10 (e) The competitive process by which vendors are selected shall
 11 include the following requirements:

12 (1) That prospective vendors shall not communicate with any
 13 member of the governing body of the school employer or the
 14 committee specified in subdivision (d), except in an official meeting
 15 of the governing body or the committee with respect to the
 16 competitive review process being undertaken pursuant to this
 17 section. A violation of this paragraph shall result in disqualification
 18 of the prospective vendor from selection.

19 (2) That prospective vendors shall not provide any financial
 20 payment to any member of the governing body of the school
 21 employer or the committee specified in subdivision (d) for the
 22 period of time beginning with the start of the competitive review
 23 process and ending when the contract or preferred vendor list
 24 expires. A violation of this paragraph shall result in
 25 disqualification of the prospective vendor from selection.

26 (3) That vendors shall adhere to any policy adopted by the
 27 school employer or the committee specified in subdivision (d)
 28 regarding communications and marketing of financial products
 29 to employees of the school employer.

30 (4) A violation of any of the policies specified in this subdivision
 31 by a vendor shall result in termination of the contract with the
 32 school employer or removal from the preferred vendor list, as
 33 applicable.

34 (f) A school employer that elects to exercise its authority
 35 pursuant to subdivision (b) shall report to the Legislature on or
 36 before January 1, 2017, the following information, as of September
 37 1, 2012, and as of September 1, 2016:

38 (1) The percentage of school employees participating in a 403(b)
 39 product.

1 (2) *The weighted average fee being charged to school employees*
2 *participating in a 403(b) product.*

3 (3) *The school employer's administrative costs and workload*
4 *associated with offering 403(b) products.*

5 (g) *This section shall remain in effect only until January 1, 2018,*
6 *and as of that date is repealed, unless a later enacted statute, that*
7 *is enacted before January 1, 2018, deletes or extends that date.*

8 SECTION 1. ~~Section 1199 of the Labor Code is amended to~~
9 ~~read:~~

10 ~~1199. Every employer or other person acting either individually~~
11 ~~or as an officer, agent, or employee of another person is guilty of~~
12 ~~a misdemeanor, punishable by a fine of not less than two hundred~~
13 ~~fifty dollars (\$250) or by imprisonment for not less than 30 days,~~
14 ~~or by both, who does any of the following:~~

15 (a) ~~Requires or causes any employee to work for longer hours~~
16 ~~than those fixed, or under conditions of labor prohibited by an~~
17 ~~order of the commission.~~

18 (b) ~~Pays or causes to be paid to any employee a wage less than~~
19 ~~the minimum fixed by an order of the commission.~~

20 (c) ~~Violates or refuses or neglects to comply with any provision~~
21 ~~of this chapter or any order or ruling of the commission.~~